



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

April 25, 2007

The Honorable Robert Wirsch, Chair
Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges and Consumer Protection

Re: SB 99 relating to prohibitions against certain telephone and facsimile solicitations.

Dear Senator Wirsch:

Thank you for the opportunity to provide testimony on SB 99. The Department of Agriculture, Trade & Consumer Protection supports the legislation.

This legislation accomplishes four objectives that we believe are desired by the majority of Wisconsin consumers. First, it enables persons who have cell phones to add their numbers to the no-call list. Cell phones have become increasingly popular since the no-call list was first adopted in 2001. Indeed, many individuals, particularly younger ones, have abandoned landlines altogether and only have a cell phone. While we are not aware that telemarketing via cell phones is currently as prevalent as telemarketing was on landlines prior to the enactment of the law, we believe that it is only a matter of time before cell phones telemarketing will become widespread.

Telemarketing to cell phone users want to enjoy the same freedom from telemarketing calls as landline users. And, since many cell phone plans charge for incoming calls, cell phone users can be viewed as even more in need of protection of calls than landline users. The federal government permits cell phone users to place their numbers on the federal do-not-call list and we think that adding cell phones to Wisconsin's list is both a necessary and logical extension of the 2001 law.

Second, SB 99 permits small businesses to add their phone numbers to Wisconsin's no call list. Since the enactment of the original no-call law, we've heard from a sizeable number of small businesses that telemarketing to their offices and retail/commercial establishments interferes with productivity and as a result, costs them time and money. Many small businesses have single phone numbers with extensions for various departments or employees. Telemarketing calls to the main number tie up both the phone line and the receptionist and lead to missed calls from customers, suppliers, and others that have an actual business need to contact the particular office or business. Enabling these businesses to add their phone numbers to the no-call list will permit small

Agriculture generates \$51.5 billion for Wisconsin

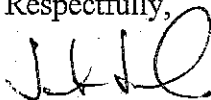
businesses and employees to keep their focus on doing business, not on answering telemarketing calls.

Third, the proposed legislation increases the maximum forfeiture from \$100 to a range of \$1,000 to \$10,000 per violation of the no-call law. Telemarketing is big business and telemarketers spend hundreds of thousands of dollars on telemarketing campaigns because the return, in terms of sales made, is great. The current penalty of \$100 per violation does little to deter unscrupulous telemarketers from violating the no-call law because the cost of violating the law, assuming one gets caught, is significantly less than the profits to be made. In essence, the \$100 forfeiture simply becomes a cost of doing business. Since the whole purpose of the law is to prevent telemarketing to individuals who don't want to be telemarketed, the law's penalty should be high enough to deter the prohibited conduct.

Finally, the proposed legislation provides enforcement teeth to the law's current prohibition against sending unsolicited faxes. That prohibition is set forth in Sec. 134.72, Stats. Under present law, a person may not send an unsolicited facsimile that encourages the recipient to purchase property, goods or services unless the solicitation is no more than one page in length and the sender and recipient had a previous business relationship. If Sec. 134.72 is violated, only District Attorneys can prosecute and the maximum penalty is a \$500 forfeiture. District Attorneys are reluctant to prosecute violations because they have many other, higher priority cases. The proposed legislation transfers investigative and enforcement authority to DATCP and also increases the forfeiture to a range of \$1,000 to \$10,000 which serves the same deterrent purpose as the increase in penalty for no-call violations.

Again, thank you for allowing us to voice our support for SB 99.

Respectfully,



Janet Jenkins

Administrator

Division of Trade & Consumer Protection